

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 98-1232
)	
MICROSOFT CORPORATION,)	
)	
Defendant.)	
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STATE OF NEW YORK, <u>ex rel.</u>)	
Attorney General DENNIS C. VACCO,)	
<u>et al.</u> ,)	
)	
Plaintiffs and)	
Counterclaim-Defendants,)	
)	
v.)	Civil Action No. 98-1233
)	
MICROSOFT CORPORATION,)	
)	
Defendant and)	
Counterclaim-Plaintiff.)	
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ORDER

Upon consideration of the several motions of the New York Times Company, ZDTV, L.L.C., ZDNET, the Seattle Times, Reuters America, Inc., and Bloomberg News (collectively, "intervenors") for leave to intervene to enforce a right of access, pursuant to 15 U.S.C. § 30, to all depositions taken in this action, and in accordance with the proceedings in open court at the hearing of August 11, 1998, it appearing to the Court that the plain language of 15 U.S.C. § 30 mandates that at a minimum the relief

sought by intervenors the New York Times Company, ZDTV, ZDNET, and the Seattle Times by their most recent motion must be granted, but cf., 8 Charles Alan Wright et al., Federal Practice & Procedure § 2041 (2d ed. 1994); Richard L. Marcus, Myth and Reality in Protective Order Litigation, 69 Cornell L. Rev. 1, 39 (Nov. 1983), it is, this ____ day of August, 1998,

ORDERED, that the motions of prospective intervenors, as members of the public, for leave to intervene to enforce a generic "right of access" are granted in part; and it is

FURTHER ORDERED, that intervenors and all other members of the public shall be admitted to all depositions to be taken henceforth in this action, including the deposition of William Gates III, to the extent space is reasonably available to accommodate them consistent with public safety and order; and it is

FURTHER ORDERED, to the extent it may be necessary to enable an interlocutory appeal to be taken herefrom, the Court states pursuant to 28 U.S.C. § 1292(b) that this Order involves a collateral but controlling question of law as to which there is substantial ground for a difference of opinion as to the extent of public access to pretrial proceedings in this action, and that an immediate appeal from this Order may materially advance the ultimate termination of the litigation, see Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 546 (1949); Ficken v. Alvarez,

No. 97-5190, 1998 WL 380562, at **1-2 (D.C. Cir. Jul. 10, 1998); and it is

FURTHER ORDERED, that all depositions in this action are stayed pending presentation by intervenors and the parties, for entry by the Court, of an agreed form of order establishing a protocol for affording access for intervenors and other members of the public to pretrial depositions which comports with 15 U.S.C. § 30, but which also protects the interests of the parties and of third-party deponents in preventing unnecessary disclosure of trade secrets or other confidential information, see United States v. United Fruit Co., 410 F.2d 553 (5th Cir. 1969); United States v. International Bus. Mach., 67 F.R.D. 40 (S.D.N.Y. 1975).

Thomas Penfield Jackson
U.S. District Judge